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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,654	06/24/2003	Masaya Tamaru	0649-0895P	1294
2292	7590	11/14/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			MADDEN, GREGORY VINCENT	
PO BOX 747				
FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/601,654	TAMARU ET AL.
	Examiner Gregory V. Madden	Art Unit 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 October 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,5 and 6 is/are rejected.
- 7) Claim(s) 3, 4, 7, and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 October 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species I (pertaining to claims 1-8) in the reply filed on October 20, 2006 is acknowledged.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

The disclosure is objected to because of the following informalities: First, regarding the Description of the Related Art section, Page 1, Line 14 reads "...in the case of imaging imaginga high luminance subject...", whereas the line should read --...in the case of imaging a high luminance subject.... On Page 4, Line 15, the line reads "...additively combining theboth signals...", whereas the line should read --...additively combining both signals.... Next, regarding the Summary of the Invention section, there are numerous instances (beginning on Page 7, Line 18 and ending on Page 12, Line 16) where the word "an" is mistakenly capitalized. Finally, in the Detailed Description of the Preferred Embodiments, considering Page 57, there are numerous mistakes regarding the reference numbers to Fig. 17. The first gamma correction circuit should be numbered "53a", not -13a--, the second gamma correction circuit should be numbered "53b", not -13b--, and the addition operation circuit should be numbered "44", not 14. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda et al. (U.S. Pat. 6,204,881).

First, considering **claim 1**, the Ikeda reference teaches an image combination method of image-combining a high output image data (from image sensing device 401a) and a low output image data (from image sensing device 401b), the method comprising the steps of multiplying a combined data (combined in image combining unit 405) of the high output image data (image data I) and the low output image data (image data II) by a total gain that depends on a scene (via gain control processing). Please refer to Figs. 32-33, Col. 26, Line 27 – Col. 27, Line 34, and Col. 28, Lines 6-10.

As for **claim 2**, the limitations of claim 1 are taught above, and the method of Ikeda further teaches that the total gain is multiplied on the combined data of the high and low output image data (image data I and II) in a range that the high output image data exceeds a certain value (i.e. exceeds the lower limit “100”), as is taught in Col. 27, Lines 35-52.

Next, regarding **claim 5**, as is similarly taught above with regard to claim 1, the Ikeda reference teaches an image pickup apparatus (image sensing devices 401a and 401b) for image-combining (in image combining unit 405) a high output image data (image data I) and a low output image data (image data II), the method comprising a multiplying means (gain control) for multiplying a combined data of the high output image data (image data I) and the low output image data by a total gain that depends on a scene. Please refer again to Figs. 32-33, Col. 26, Line 27 – Col. 27, Line 34, and Col. 28, Lines 6-10.

In regard to **claim 6**, the limitations of claim 5 are taught above, and Ikeda further teaches that the total gain is multiplied on the combined data of the high and low output image data (image data I and II) in a range that the high output image data exceeds a certain value (i.e. exceeds the lower limit “100”), as is taught in Col. 27, Lines 35-52.

Allowable Subject Matter

Claims 3, 4, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

First, in regard to **claim 3**, the prior art fails to teach or fairly suggest an image combination method wherein the range that the high output image data exceeds a certain range is the range that the total gain (p) exceeds a value represented by $[(\text{arbitrary numeral "alpha"} - \text{coefficient "k"}) X (\text{high output image data after gamma correction "high"/threshold "th"})]$, or $[(\alpha - k) X (\text{high/th})]$.

As for **claim 4**, the limitations of claim 3 are taught above, and therefore claim 4 would be allowable based on dependence from claim 4. Further, the prior art fails to teach or fairly suggest that the total gain $p=0.8$ for high contrast scenes, $p=0.86$ for cloudy or shady scenes, and $p=0.9$ for indoor scenes under fluorescent lamp illumination.

Considering **claim 7**, the prior art again fails to teach or fairly suggest an image combination method wherein the range that the high output image data exceeds a certain range is the range that the total gain (p) exceeds a value represented by $[(\text{arbitrary numeral "alpha"} - \text{coefficient "k"}) X (\text{high output image data after gamma correction "high"/threshold "th"})]$, or $[(\alpha - k) X (\text{high/th})]$.

Finally, in regard to **claim 8**, the limitations of claim 7 are taught above, and therefore claim 8 would be allowable based on dependence from claim 7. Further, the prior art again fails to teach or fairly suggest that the total gain $p=0.8$ for high contrast scenes, $p=0.86$ for cloudy or shady scenes, and $p=0.9$ for indoor scenes under fluorescent lamp illumination.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kamishima et al. (U.S. Pub. 2001/0001245): Note Paras. [0097-0100]

Serizawa et al. (U.S. Pat. 6,593,970)

Harada (U.S. Pat. 6,211,915)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory V. Madden whose telephone number is 571-272-8128. The examiner can normally be reached on Mon.-Fri. 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gregory Madden
November 6, 2006



NGOC-YEN VU
SUPERVISORY PATENT EXAMINER